

**MINUTES FOR A REGULAR MEETING OF THE CIVIL SERVICE COMMISSION  
HELD AT 6:00 P.M., THURSDAY EVENING, JULY 14, 2005  
CITY COUNCIL CHAMBERS, #2 CIVIC CENTER PLAZA – 2ND FLOOR**

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**MEMBERS PRESENT:** Ellis, William - Chair  
Gezelius, Ken  
Graham, Elijah  
Martinez, Ramy  
Peña, Andrew  
Ruck, Lance  
Scott, Valerie

**MEMBERS ABSENT:** Boureslan, Ali  
Schwartz, Elma

**ALSO PRESENT:**

Arballo, Bill – AFSCME  
Bond, Terry – CSC Secretary/HR Director  
Buenning, Rosy – CSC Recorder  
Castillo, Norma  
Cuellar, Lupe – Asst. City Attorney  
Fargo, Peter - Human Resources  
Gardon, Rafael – Parks & Rec.  
Hengen, Elaine – Asst. City Attorney  
Maese, Jose  
Martinez, Lupe – Asst. City Attorney

Momsen, Richarda – Municipal Clerk  
Perez, Ruben  
Reed, Amy – Museums  
Rodriguez, Sandy  
Sandoval, Robert  
Thomas, Linda – HR Asst. Director  
Van Lauwe, Elizabeth – Mass Transit  
Vanarsdall, Chandra  
Wilson, Joyce – City Manager  
Yadougua, Robert

The meeting convened at 6:07 p.m. with a quorum of 7 Commissioners present and Chair Ellis presiding.

**CONSENT AGENDA**

Ms. Bond requested that Items 10B be deleted. She also pointed out a correction to Item 12 which should read Equipment Operator II instead of Equipment Operations Supervisor. Ms. Bond said she had a request to move Item 22 to the forefront of the Regular Agenda.

Jennifer Callan from the City Attorney's Office advised that she and Mr. Cichon from CLEAT had come to an agreement reference Item 22 therefore she requested the item be deleted.

Commissioner Ruck requested Item 6B be moved to the Regular Agenda.

Commissioner Martinez requested Item 8A be moved to the Regular Agenda.

Chair Ellis requested Items 2C and 2H be moved to the Regular Agenda.

**MOTION TO APPROVE THE CONSENT AGENDA WITH THE MODIFICATIONS MADE BY COMMISSIONER PEÑA, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.**

**1. Discussion and Action on Approval of Minutes:**

- A. May 26, 2005
- B. June 23, 2005

**2. Discussion and Action on Approval of Contracts:**

- A. Personal Services Contract with Mark Edward Grissom to perform the duties of Chief Plans Examiner from July 28, 2005 through January 27, 2006, for Building Permits & Inspections.

- B. Cooperative Services Contract with Armando Duran to perform the duties of Chemist from July 28, 2005 through July 27, 2006, for the El Paso Water Utilities.
- C. Professional Services Contract with Roberta Buchman Cross to perform the duties of Hearing Officer from August 1, 2005 through July 31, 2006, for Human Resources.

*This item was addressed at the beginning of the Regular Agenda.*

Chair Ellis requested that the word "City" on the Termination clause, item #9 on the contract be changed to "Commission" since the Commission was the only one that could terminate the Hearing Officers' contracts as stated in the Charter.

MOTION TO APPROVE ITEM 2C AS MODIFIED MADE BY COMMISSIONER GEZELIUS, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.

- D. Personal Services Contract with Alejandra Romina Ruiz to perform the duties of Assistant to the Museums Development Coordinator from July 18, 2005 through July 17, 2006, for the El Paso Museum of Art.
- E. Personal Services Contract with Cindy Duran to perform the duties of CRT Case Manager from July 15, 2005 through September 30, 2005, for the El Paso Police Department.
- F. Personal Services Contract with Maria Elena Rivera to perform the duties of CRT Case Manager from July 15, 2005 through September 30, 2005, for the El Paso Police Department.
- G. Personal Services Contract with Felipe Castro to perform the duties of Industrial Engineer Associate I from July 26, 2005 through January 26, 2006, for Solid Waste Management.
- H. Personal Services Contract with Brent Pearson to perform the duties of Arborist from August 13, 2005 to August 12, 2006, for the Street Department.

*This item was addressed at the beginning of the Regular Agenda.*

Chair Ellis asked if this contract incorporated a five percent pay increase and if this was a classified position. He was concerned with the five percent pay increase since classified employees weren't scheduled to receive a five percent pay increase too.

Daryl Cole, Street Department Director, said it did incorporate a five percent increase.

Ms. Bond said this was not a classified position.

Commissioner Ruck didn't oppose giving the contract employee a five percent increase as long as City employees got a five percent increase when it is possible.

MOTION TO APPROVE ITEM 2H MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

3. Discussion and Action on Approval of Applications for Outside Employment:

- A. Aguilar - Sylvia - Police
- B. Aguirre - Michael - Mass Transit
- C. Alvarado - Carlos - Police
- D. Breck - Ben - Airport
- E. Cubillos - Rosalia - Police
- F. Gonzalez - Ricardo - E.P.W.U.
- G. Jimenez - Virginia - Police
- H. Lopez - Mario - E.P.W.U.

- I. Lozano - Albert - Police
- J. Pastran - Luis - Police
- K. Rodriguez - Paula - Police
- L. Rubio - Shantell - Mass Transit
- M. Smith - Boyd - Fire
- N. Tausani - George - Fire

4. Notice of Promulgation of Eligible Lists:

- A. EPWU Pre-Treatment Inspector = Promulgated 06/17/05 (P-0)(CR-0)(O-2)
- B. Building Inspector = Promulgated 06/17/05 (O-0)
- C. Police Lieutenant = Promulgated 06/21/05 (P-16)
- D. EPWU Water Plant Asst. Superintendent = Promulgated 06/29/05 (P-12)
- E. Library Branch Manager = Promulgated 06/29/05 (P-1)(O-5)
- F. Traffic Signs & Markings Worker I = Promulgated 07/01/05 (P-12)(CR-1)(O-25)
- G. Consumer Affairs Administrator = Promulgated 06/29/05 (P-3)
- H. Assistant Director of Parks & Recreation = Promulgated 07/05/05 (P-1)(O-2)

5. Discussion and Action on Approval of Classification Actions:

New Job Class/Revised Job Class/Revised Job Class & Grade/Revised Job Class, Title & Grade

**Title**

**Code**

**Grade**

*Item Not Used*

6. Discussion and Action on Approval of placement of incumbents into reclassified positions:

	<b>Title</b>	<b>Code</b>	<b>Grade</b>
A.	Official: Secretary II	1822	GS 16
	Proposed: Secretary III Calderon, Martha	1823	GS 19
B.	Official: Planner II	5702	PM 76
	Proposed: Planner III Flores, Luis	5703	PM 80

*This item was addressed at the beginning of the Regular Agenda.*

Commissioner Ruck said that the Commission had seen this kind of reclassification many times, however, this was the first time that an employee was speaking out and saying they wanted a chance for that job. He believed that this action was being taken because the incumbent has been working out of class doing the duties of the higher position. He suggested that the position be tested for and the top five candidates could interview for the position. Commissioner Ruck observed that Mr. Flores had been working out of class for this lengthy period of time and wondered why the department hadn't requested permission to work him out of class.

**MOTION TO DENY ITEM 6B MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GRAHAM (this motion was withdrawn after discussion).**

Donald Marron, Fire Department, gave the Commission a little history as to how Mr. Flores had taken over the duties he was currently performing. Chief Marron became Planning Chief in 1998 and around 2000 Mr. Flores came in as a Planner II. Chief Marron advised that he was promoted to Asst. Chief in March 2004 and Mr. Flores at that time picked up all of Chief Marron's Planning Division Chief duties that he had been performing. He explained how the PDQ was done through Human Resources and why the upgrade is being requested and urged the Commission to approve this request.

Ms. Bond asked the Commission to turn to Rule 4, Section 4b reference reclassifications. She told the Commission that there are reclassifications requested on Civil Service Commission agenda often and requested they approve this request as well.

## Discussion.

Assistant City Attorney Lupe Cuellar told the Commission that when a reclassification is taking place the previous position in essence goes away, therefore, what they were doing to this employee is basically laying him off if they didn't approve the reclassification because the Planner II position no longer existed.

Chair Ellis reminded the Commission that this discussion was particularly relevant to Item 15 when they get to it.

MOTION TO APPROVE ITEM 6B MADE BY COMMISSIONER PEÑA, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.

7. Discussion and Action on request to assign pending appeal cases:

DeBruhl, Edward – Suspension – Mass Transit

Chair Ellis said that if the Commission didn't object he was asking Ms. Bond to have the Hearing Officer consider compliance with Rule 15.3d as a threshold issue when the matter is considered.

8. Discussion and Action on request to have name placed on Reinstatement List:

A. Prise, Nathalie – Community Development Grants and Program Admin. – Community Dev.

*This item was addressed at the beginning of the Regular Agenda.*

Commissioner Martinez reference page 2 of the backup, the memorandum to Debbie Hamlyn from Terry Bond which is requesting comments. He had a problem with the word "approved" and a signature being sent back as comments, he didn't believe it was adequate information. He referenced other comments and gave an example of how Chief Wiles sends a memorandum with excellent comments on the employee and why he is recommending reinstatement.

MOTION TO APPROVE ITEM 8 MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER PEÑA AND UNANIMOUSLY PASSED.

B. Vanarsdall, Chandra – Public Safety Dispatch Shift Supervisor – Police Dept.

C. Yadouga, Robert – Public Safety Dispatcher-Police – Police Dept.

9. Discussion and Action on Approval of Merit Increases in accordance with C.S.C. Guidelines:

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| A. Airport-Apodaca, Federico-AP Maintenance Worker               | BB. Municipal Clerk-Apodaca, Edelmire-Clerk Typist II              |
| B. Airport-Breck, Benjamin-AP Operations Officer                 | CC. Municipal Clerk-Gilmore, Katrina-Clerk Typist II               |
| C. Airport-Duran, Luis-Bldg Maintenance Wkr II                   | DD. Municipal Clerk-Harper, Jacqueline-Administrative Assistant    |
| D. Airport-Landeros, Martin-Custodial Worker                     | EE. Municipal Clerk-Hernandez, Patricia-Deputy Court Clerk I       |
| E. Airport-Lopez, Norman-Custodial Foreman I                     | FF. Municipal Clerk-Holguin, Guadalupe-Deputy Court Clerk II       |
| F. Airport-Lopez, Reymundo-AP Maintenance Worker                 | GG. Municipal Clerk-Jones, Maria-Cashier II                        |
| G. Airport-Lynn, Randall-AP Maintenance Worker                   | HH. Municipal Clerk-Lozano, Rosa-Deputy Court Clerk II             |
| H. Airport-Martinez, Blanca-Custodial Worker                     | II. Municipal Clerk-Medina, Gabriela-Cashier II                    |
| I. Airport-Miranda, Michael-Custodial Supervisor                 | JJ. Municipal Clerk-Paz, Beatriz-Cashier II                        |
| J. Airport-Perez, Jose-Automotive Tech II                        | KK. Municipal Clerk-Prine, Laura-Collections Supervisor            |
| K. Airport-Ramirez, Andres-Custodial Worker                      | LL. Municipal Clerk-Worrell, Lilia-Assistant Municipal Crt Clerk   |
| L. Airport-Ramirez, Hector-AP Maintenance Worker                 | MM. OMB-Salcido, Michael-Messenger I                               |
| M. Airport-Salazar, Gary-Commun Dispatcher II                    | NN. Parks & Recreation-Aragon, Eduardo-Equipment Operator II       |
| N. Airport-Stohr, Kevin-Labor Foreman II                         | OO. Parks & Recreation-Belcher, Julie-Recreation Services Spvr     |
| O. Airport-Valdez, Juan-Auto Tech Supervisor                     | PP. Parks & Recreation-Bustamante, Ramon-Equipment Operator II     |
| P. Airport-Wise, Gary-Welder                                     | QQ. Parks & Recreation-Calderon, Carlos-Recreation Services Coord. |
| Q. Airport-Wolff, William-AP Operations Officer                  | RR. Parks & Recreation-Castorena, Arturo-Equipment Operator II     |
| R. City Manager's Office-Simmons, Zelma-Administrative Assistant | SS. Parks & Recreation-Castro, Jose-Recreation Program Spvr        |
| S. Fire-Arroniz, Jorge-Public Safety Dispatcher                  | TT. Parks & Recreation-Del Campo, Miguel-Recreation Leader II      |
| T. Fire-Duran, Leslie-Public Safety Dispatcher                   | UU. Parks & Recreation-Duran, Eliseo-Recreation Specialist         |
| U. Fire-Espinosa, John-Stores Clerk II                           | VV. Parks & Recreation-Elliott, Ginger-Recreation Program Spvr     |
| V. Fire-Gallegos, Senaida-Personnel & Accounting Clk             | WW. Parks & Recreation-Escobedo, Aurelio-Bldg Maintenance Wkr I    |
| W. Fire-Medina, Sylvia-Public Safety Dispatcher                  | XX. Parks & Recreation-Esparza, Daisy-Clerk Typist II              |
| X. Fire-Villazana, Virginia-Personnel & Accounting Clk           | YY. Parks & Recreation-Figueroa, Robert-Electrician                |
| Y. Human Resources-Pena, Armando-Employee Services Admin.        | ZZ. Parks & Recreation-Flores, Victor-Park Area Supervisor         |
| Z. Human Resources-Puga, Monica-Personnel Analyst II             | AAA. Parks & Recreation-Garza, Robert-Recreation Specialist        |
| AA. Municipal Clerk-Aguirre, Ana-Cashier II                      | BBB. Parks & Recreation-Huitron, Norma-Recreation Specialist       |

CCC. Parks & Recreation-Little, Donna-Secretary I	MMM. Parks & Recreation-Valadez, Enrique-Recreation Services Coord.
DDD. Parks & Recreation-Martinez, Armando-Plumber	NNN. Parks & Recreation-Valenzuela, Alfonso-Recreation Specialist
EEE. Parks & Recreation-Martinez, Raul-Recreation Program Spvr	OOO. Parks & Recreation-Vasquez, Francisco-Trades Helper
FFF. Parks & Recreation-Martinez, Salvador-Automotive Shop Helper	PPP. Parks & Recreation-Yanez, Raul-Maintenance Mechanic I
GGG. Parks & Recreation-Ortega, Samuel-Bldg Maintenance Wkr I	QQQ. Parks & Recreation-Yee, Esperanza-Recreation Specialist
HHH. Parks & Recreation-Ramirez, Gabriel-Groundskeeper	RRR. Planning, Res & Dev.-Forsyth, Kimberly-Planner II
III. Parks & Recreation-Razo, Ruth-Recreation Specialist	SSS. Planning, Res & Dev.-Fraser, James-Planner III
JJJ. Parks & Recreation-Rodriguez, Jose-Recreation Services Mgr	TTT. Zoo-Rodriguez, Enrique-Veterinary Tech. Spvr
KKK. Parks & Recreation-Rodriguez, Sandra-Recreation Services Coord	UUU. Zoo-Soto, Debra-Clerk III
LLL. Parks & Recreation-Ruiz, Alfonso-Maintenance Mechanic II	

10. Discussion and Action on Request for Temporary Promotion:

- A. Molina, Heriberto - Airport  
From: Custodial Worker  
To: Shuttle Bus Operator
- B. Rosales, Martin - Airport (Extension)  
From: Custodial Worker  
To: Shuttle Bus Operator

*This item was deleted concurrent with the approval of the Consent Agenda.*

11. Discussion and Action on request to reset ending date of probationary period in accordance with Article VI, Section 6.9-1 of the C.S.C. Charter:

Almanza, Ramon - Laborer - Street Dept.

12. Discussion and Action on Request to Work Employee Out of Classification:

Morales, Frank - Street Dept.  
From: Equipment Operations Supervisor  
To: Street Operations Supervisor

13. Discussion and Action on Approval of Hearing Officer's Invoice:

- A. Cross, Roberta - Dated 06/30/05 - June 2005
- B. Palafox, Patricia - Dated 06/30/05 - June 2005

14. Discussion and Action on Request for Extension of Eligible Lists for an additional six months:

- A. Groundskeeper - Extended through January 28, 2006
- B. Laborer - Extended through February 28, 2006

**REGULAR AGENDA**

15. Discussion and Action on new rule for Working Out of Class.

Joyce Wilson, City Manager, stated that she had sent a memorandum to the Commission explaining what transpired at the City Council meeting. She apologized for all the confusion at that meeting, she stated they were transitioning with a new City Attorney and he hadn't had a chance to review it. She said she was asking Mayor and Council to make some amendments to the rule before they approved it. Specifically the approval requirement of these actions by the Commission. She said Mr. McNabb also had other concerns which he didn't have time to review. She said she had corresponded with the Chair of the Commission in terms of options to pursue this further.

Commissioner Ruck stated that when the Commission approves a rule change there is no authority for anybody to amend the rule. He said if the rule needs amending it needs to come back to the Commission. Commissioner Ruck said what he wanted to see come out of this is employees get paid for working out of class after they've done it for 60 or 90 days which he said the City Manager agreed to on March 10<sup>th</sup>.

Ms. Wilson said they concurred. She said since the Commission was concerned with being aware she was looking for a way to report to the Commission either quarterly or biannually.

Commissioner Graham commented that everyone who had been involved in the committee previously had done a lot of hard work and everybody was in agreement. He believed they needed to give the rule an opportunity to work before trying to amend it in any way. He didn't agree with sending this back to any subcommittee because they had already spent an enormous amount of time dealing with the issue.

Discussion.

Chair Ellis reminded the Commission of what happened on Item 6B where an employee had been worked out of class for a long period of time. This is the reason he believe they needed the Commission's oversight. He asked Ms. Cuellar to give some historic issues in this regard.

Assistant City Attorney Lupe Cuellar stated that basically what had brought us to this point was that the Civil Service Commission had a policy requiring Department Heads that were going to work employee's out of class for more than 30 days to request permission to do so from the Commission so the employees could get credit for that time period. There have been numerous occasions when the Commission became aware that the policy was not being followed because there were employees who were applying for promotions and being disqualified due to lack of experience. In some instances the employees' supervisor would come before the Commission and tell them the employee had been performing the duties but the department had neglected to make the request. She believed this is the reason the Chair believed the Commission needed to have the oversight sought. Ms. Cuellar believed the City Manager wanted the opportunity to have that oversight and be able to take appropriate action if Department Heads are not following the rule.

Discussion.

Commissioner Ruck said he wasn't even opposed to having the City Manager approve these requests provided the employees could appeal to the Commission should they be denied by the City Manager. Bill Arballo, AFSCME, said he also sat on that committee and suggested the same committee be used and stated that it was the consensus of the committee which was presented to City Council.

Robert Sandoval, City Employee's Association representative, stated they had met with the City Manager and had reviewed the amendments prior to today's meeting and didn't see any problems with the small changes the City Manager wanted to make.

Chair Ellis said that they were substantial changes because the changes took away the Commission's ability to assure that employee's weren't being worked out of class inappropriately.

Commissioner Ruck commented that Department Heads have never been held accountable for not making the appropriate request for employees to work out of class and he didn't believe that would change.

Discussion.

**MOTION TO AUTHORIZE A JOINT MEETING OF THE CIVIL SERVICE COMMISSION COMMITTEE AND THE COUNCIL'S LEGISLATIVE REVIEW COMMITTEE REFERENCE WORKING OUT OF CLASS MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.**

**16. Discussion and Action on revisions to the Performance Evaluation Manual.**

Ms. Bond advised that this was a handbook that was often used by supervisors in completing the performance evaluation forms. She explained that previously there were two manuals, one for executives and professional/managerial employees, and one for general services employees. Ms. Bond explained that the manuals were basically the same and that was the reason that they were combined into one.

Chair Ellis stated that on page 2 of the manual under C1 on the last sentence, he believed the words "Without notice of discharge" should be removed and it would mean the same thing.

Ms. Bond agreed and also suggested adding the word "successful" before the word "completion" on the same sentence.

Chair Ellis then suggested replacing the word "moved" with the word "persuaded" on page 4 under H where it reads "If the Department Head or Deputy City Manager is "moved" by the employee's appeal....." Also, on the last sentence of the second paragraph of Item I on page 4, the word "Commission" should be added after "Civil Service." On page 5, the last sentence of the first paragraph needed to be amended to read ".....or take other action as provided in Rule 14."

Ms. Bond said those changes could be made.

MOTION TO APPROVE ITEM 16 WITH THE MENTIONED MODIFICATIONS MADE BY COMMISSIONER MARTINEZ, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

17. Discussion and Action on distribution of position vacancies

Ms. Bond gave a little history on the issue and explained that there was actually no policy in place, it was just instruction to the departments with what to do with the documents provided to them from Human Resources.

MOTION TO DELETE ITEM 17 MADE BY COMMISSIONER PEÑA, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

18. Discussion and Action on Memo from Rafael Gardon regarding previous denied grievance.

Chair Ellis believed that unless there was a motion to reconsider the action they had taken at the last meeting they could not address this item. Chair Ellis asked if there was a motion to reconsider and there was none.

Assistant City Attorney Lupe Cuellar agreed that the item had already been considered.

MOTION TO DELETE ITEM 18 MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GEZELIUS AND UNANIMOUSLY PASSED.

19. Discussion and Action on Hearing Officer's Report and Recommendation:

A. Maese, Jose – Termination – Mass Transit (05-SM-02PP)

Bill Arballo was present representing Mr. Maese. He told the Commission that the Hearing Officer's finding did not sustain disciplining Mr. Maese at all and requested that they approve the Hearing Officer's recommendation without the suggestion that the Department Head could issue a lesser discipline.

Chair Ellis said it was unbelievable that the Department Head was left to fend for himself and prosecute this case on his own. He didn't believe Department Heads were skilled or properly trained to do this.

Assistant City Attorney Lupe Martinez said yes, the Department Head handled the case.

Elizabeth Van Lauwe, Assistant Director of Mass Transit, requested that the Commission sustain the termination. She stated that the documentation presented at the hearing supports the termination. She said that in the event the termination is not upheld and the employee is reinstated, they request that the period from the termination date to the reinstatement date be considered a suspension.

Discussion.

Commissioner Ruck said he would motion to delete the final sentence of the recommendation. He said he didn't see how the department even had the authority to suggest a suspension in lieu of the termination, first because of the Charter provisions, second because the deadline has passed which would preclude them from disciplining him now, and third if the charges weren't sustained how can they give him a lesser discipline unless they initiate new charges.

MOTION TO DELETE THE LAST SENTENCE OF THE HEARING OFFICER'S RECOMMENDATION MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

MOTION TO APPROVE THE RECOMMENDATION AS MODIFIED TO NOT SUSTAIN THE TERMINATION MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

Chair Ellis asked Assistant City Attorney Lupe Cuellar if she believed the Ethics Ordinance was an appropriate statutory basis for disciplinary action.

Assistant City Attorney Lupe Cuellar said it could be.

Chair Ellis was concerned that what happened in this case if it were known to the public would hardly inspire integrity and confidence on the part of the public in City government.

Assistant City Attorney Lupe Cuellar said that when a Department Head issues a discipline, the Hearing Officer has two things to determine. First would be to determine whether or not the misconduct took place, second was the punishment appropriate.

Assistant City Attorney Lupe Martinez said the actions were clearly inappropriate for the workplace and asked the Commission to exercise their power to reduce the action to a suspension.

Chair Ellis said he was interested in getting legal advice from the Commission's counsel.

MOTION TO ADJOURN TO EXECUTIVE SESSION MADE BY COMMISSIONER GRAHAM, SECONDED BY COMMISSIONER PEÑA AND UNANIMOUSLY PASSED.

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The Commission retired into Executive Session at 7:28 p.m. to discuss Item 19A, and reconvened for Open Session at 7:41 p.m.

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MOTION TO ADJOURN EXECUTIVE SESSION AND RETURN TO REGULAR SESSION MADE BY COMMISSIONER MARTINEZ, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

MOTION TO APPROVE THE RECOMMENDATION AS MODIFIED TO NOT SUSTAIN THE TERMINATION MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

B. Perez, Ruben – Termination – Street Dept. (04-ST-27PP)

Ralph Miranda, representative for Ruben Perez, stated that he was impressed by the comments that the Commission is here to do justice and to ensure fairness to the employees. He gave the Commission a little history on his client stating that his record was exemplary by never having any kind of discipline against him and whose director stated that he was one of the best employees they had. Mr. Miranda continued by telling the Commission that his client was simply following the directions given to him by his superiors, which he didn't question. He reviewed the Hearing Officer's recommendation briefly and urged the Commission to please review the facts carefully and if possible to listen to the tapes so they could hear what their witnesses said. He said his client's actions didn't justify him being terminated and requested the Commission not uphold the Hearing Officer's decision.



Assistant City Attorney Lupe Martinez requested that the Hearing Officer's recommendation be approved to uphold the termination.

MOTION TO APPROVE THE HEARING OFFICER'S RECOMEMNDATION MADE BY COMMISSIONER PEÑA BUT FAILED FOR LACK OF A SECOND.

Commissioner Ruck stated that in the railroad industry a great deal of consideration was given to an employee's record. In this case they were talking about a 59 year-old man who is toward the end of his career.

Assistant City Attorney Lupe Martinez reiterated her request for the Commission to uphold the recommendation.

Daryl Cole, Street Department Director, reviewed the incident for the Commission and requested the Hearing Officer's recommendation be upheld.

Discussion.

MOTION TO APPROVE THE HEARING OFFICER'S RECOMMENDATION TO SUSTAIN THE TERMINATION MADE BY COMMISSIONER PEÑA, SECONDED BY COMMISSIONER RUCK AND APPROVED BY A VOTE OF 5 TO 1.

Ayes: Commissioners Peña, Graham, Martinez, Scott, Ruck

Nays: Commissioner Gezelius

20. Discussion and Action on the employment of outside legal counsel for the Commission (Tabled 06/09/05; 06/23/05).

Chair Ellis advised that this item would be appearing on the agenda until further notice but it didn't need to show as being tabled everytime.

MOTION TO DELETE ITEM 20 MADE BY COMMISSIONER GEZELIUS, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.

*Item 23 was addressed here.*

MOTION TO ADJOURN TO EXECUTIVE SESSION MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.

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The Commission retired into Executive Session at 8:10 p.m. to discuss Item 21, and reconvened for Open Session at 8:16 p.m.

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MOTION TO ADJOURN EXECUTIVE SESSION AND RETURN TO REGULAR SESSION MADE BY COMMISSIONER GEZELIUS, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

21. Discussion and Action on Appeal of Disqualification to take Examination and/or Removal of Name from Eligible List in accordance with C.S.C. Rules and Regulations:

Childress, Jacqueline – Police Records Unit Supervisor (8.1.d.4.)

The matter was discussed in Executive Session. The following action was taken in Open Session.

MOTION TO APPROVE ITEM 21 MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER PEÑA AND UNANIMOUSLY PASSED.

22. Discussion and Action on request from CLEAT dated June 23, 2005 reference Sgt. Angela Sommers.

*See discussion at the beginning of the Consent Agenda. This item was deleted concurrent with the approval of the Consent Agenda.*

23. Discussion and Action on formulating amendments to Rule 13, Leave of Absence, Resignation, Sick Leave and Vacations.

*This item was addressed before Item 21.*

Chair Ellis advised that there was a committee of the Commission working on this rule and sometime prior to the 4<sup>th</sup> of July weekend the City Manager advised that she would get back to the committee with some things that needed to be done in terms of formatting. That has now happened and recommended the matter be referred to the committee again for further action (Committee: Commissioners Ellis, Peña, Scott).

MOTION TO THAT MATTER BE REFERRED BACK TO THE COMMITTEE FOR FURTHER ACTION AND RECOMMENDATION MADE BY COMMISSIONER MARTINEZ, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

Chair Ellis said he would get in touch with the City Manager to schedule a meeting.

THERE BEING NO FURTHER BUSINESS BEFORE THE COMMISSION, A MOTION TO ADJOURN WAS MADE BY COMMISSIONER PEÑA, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

THE MEETING ADJOURNED AT 8:17 P.M.

  
WILLIAM J. ELLIS, C.S.C. CHAIR

  
TERRY BOND, C.S.C. SECRETARY

7-28-05  
DATE APPROVED